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Atty Dkt No. GP-302542 (GM0285PUS)

Remarks

Claims 1 – 21 are pending in this application. Claims 5, 6, 13, 14, and 19 are listed as withdrawn. Claim 10 and 11 are rejected under 35 USC 112; claims 7-11 and 20 are rejected under 35 USC 102(e); claims 20 and 21 are rejected under 35 USC 102(b); and claims 1-4, 12 and 21 are rejected under 35 USC 103(a). Claims 1, 9, 10 and 11 are currently amended as are claims 2-4, 10-11 which depend from an amended claim. The allowance of claims 15-18 is noted with appreciation.

Applicants Respond Seriatim to Items Numbered in the Detailed Action:

Claim Rejections – 35 USC § 112

2. Claims 10 and 11 are rejected under 35 USC § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner states that specification does not describe how the pedals are variably positionable when “positionable to said seat” or “to said console”. Applicants have amended claim 10 to state that the “foot pedal is positionable with respect to said seat.” The pedals are variably positioned in a guide such as an interface connector 91 or track 192 in the floorboard at the desired driving location. This amendment is supported at paragraph [0028], [0031] and Figures 9-13. Applicants have amended claim 11 to state that the “foot pedal is positionable with respect to said console.” The pedals 185 and 188 are variably positioned in interface connectors 91 in the floorboard 214, not seen in Figure 12 but shown in Figure 13. These amendments are also supported at paragraphs [0032], [0034], [0092] and [0093] and Figures 2 and 20.

Applicants respectfully request the Examiner to reconsider this rejection.

Claim Rejections – 35 USC § 102

4. Claims 7-11 and 20 are rejected under 35 USC 102(e) as being anticipated by Porter (6,962,094). For a rejection to be proper under 35 USC 102(b) every element and limitation found in the rejected claim must be found in the 102(b) reference. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or

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inherently described, in a single prior art reference.” *Verdegaal Bors. v. Union Oil Co. of California*, §14F.2d628, 631, 2 USPQ2d 1051, 1053(Fed. Cir. 1987). See MPEP §2131.

The Examiner finds Porter’s guide (2) mountable in the floorboard (see column 4, lines 20-26) (emphasis added). But this reference does not expressly or inherently describe a guide in a floorboard. What Porter earlier states in col. 4, (lines 17-20) is that:

“stationary mounting plate 2 includes – fasteners 3 for affixing assembly 10 to the floor of a vehicle.”
(emphasis added)

and that:

“Typically, the inventive assembly is mounted onto the floor of the vehicle. That is, the stationary mounting plate is affixed or adjacent to the floor of the vehicle.”
(col. 2, lines 55-58)

This arrangement, according to Porter, et al. permits the inventive assembly to be installed as a retrofit to existing vehicles (col. 2, line 50) or an attachment (col.2, line 54), whereas Applicants’ by-wire foot pedal arrangement is provided as a built-in part of the vehicle by mounting a guide “in the (vehicle’s) floorboard”. Applicants’ claims 7-11 and 20 embody this difference.

Dependent claim 8 further distinguishes Porter, et al. by requiring the guide to be “a track in said floorboard,” such as seen and disclosed in Applicants’ Figures 9, 15 and 19-23 and paragraph [0097].

Amended dependent claims 9-11 further distinguish Porter, et al. by requiring that the guide in the floorboard be “a plurality of interface connector points at different locations in said vehicle” at which the foot pedal is positionable, such as seen and disclosed in Applicants’ Figures 7, 10-13, 16 and 17 as interface connectors 91, and in Figure 18 as connector pins 194.

Applicants respectfully request the Examiner to reconsider these rejections.

5. Claim 20 is rejected under 35 USC §102(b) as being anticipated by Lee (4,702,713). As with Porter, et al., the Examiner finds Lee’s pedal 24 in Figure 7 to be movable

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along a track 66, 68 “in the floorboard.” But this reference does not expressly or inherently describe a foot pedal in a floorboard. Lee’s Figure 8 shows these tracks to be above the floor 12, and at col. 5, line 30 are stated to be “fastened to the floor 12.”

Applicants respectfully request the Examiner to reconsider this rejection.

6. Claim 21 is rejected under 35 USC §102(b) as being anticipated by Salmon (4,683,977). As with Porter, et al., the Examiner finds Salmon’s pedals 42, 44 to be removably mounted “in a vehicle floorboard for reconfiguration of the driving location” (emphasis added). Salmon never mentions a “vehicle floorboard” and Applicants’ claim 21 mainly distinguishes Salmon by requiring a foot pedal which is removably mounted “in” a vehicle floorboard, and additionally, “for reconfiguration of the driving location.” This explicit language exemplifies the four driving locations illustrated in Figures 10-13 wherein, Figure 10 shows a front left side driving location; Figure 11 shows a front right side driving location; Figure 12 shows a rear center driving location; and Figure 13 shows a left rear driving location alongside alternative “interface points” for a right rear driving location.

In Salmon, the “driving location” rather than “driving position” does not change and is only “shiftable longitudinally to vary the distances between the pedals and the driver”, see Salmon’s ABSTRACT.

Applicants respectfully request the Examiner to reconsider this rejection.

Claim Rejections – 35 USC §103

8. Claims 1-4 are rejected under 35 USC §103(a) as being unpatentable over Smythe (6,431,304) in view of Levine (6,820,895). A proper rejection under 35 USC §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP § 2142. Three basic criteria must be met to establish *prima facie* obviousness. MPEP § 2142. First, there must be some suggestions or motivation to modify a reference or combine teachings. *ID.* Second, there must be reasonable expectation of

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success. *ID.* Third, the prior art reference or references must teach or suggest all the claimed limitations. *ID.*

Claim 1 and accordingly dependent claims 2-4 have been amended to place the “track arrangement in (the) vehicle floorboard”. Neither Smythe nor Levine place their foot pedals “in” their “floorboards.” Accordingly, the prior art references do not teach or suggest all the claimed limitations.

With respect to dependent claim 3, Smythe’s brake pedal 95 is also not “splittable” as is Applicants “splittable beam 288” in Figure 24.

Applicants respectfully request the Examiner to reconsider this rejection.

9. Claim 12 is rejected under 35 USC §103(a) as being unpatentable over Porter et al in view of Smythe.

Claim 12 depends from claim 7 and is believed to patentably distinguish the applied references for the reasons given hereinbefore in support of claim 7 in Item 4 wherein both the “guide” and the “foot pedal” are respectively mountable and positionable “in said floorboard”.

Applicants respectfully request the Examiner to reconsider this rejection.

10. Claim 21 is rejected under 35 USC §103(a) as being unpatentable over Porter et al. in view of Kimsey (GB 2,243,294). The Examiner acknowledges that Porter et al. does not show pedals being removably mounted in a plurality of driver interface points, but finds in Kimsey “a car floorboard with a mat” that teaches multiple interface points to mount the guide (2) to the floorboard” (underlining added).

But claim 21 distinguishes the teachings of Porter et al. and Kimsey in two ways:

1. Neither the pedals in Porter et al., nor the mat in Kimsey is mounted “in” a vehicle floorboard; and
2. Neither Porter et al., nor Kimsey are mounting anything for reconfiguration of the driving “location”.

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In summary, the prior art relied on by the Examiner does not mount anything "in" the floorboard; and whatever is removably mounted may change or accommodate the driving position, but not the driving "location". For support, see Figures 9, 19 and 10-13, and specification paragraphs [0006], [0012], [0018], and [0093].

Conclusion

This amendment is believed to be fully responsive to the Office Action mailed 12/19/2005 and to place the case in condition for allowance. Claims 15-18 have been allowed.

Respectfully submitted,

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